Serial No.: 10/584,323
Resp. dated March 17, 2009
Reply to Office Action of December 22, 2008

PATENT
PF040008
Customer No. 24498

Remarks/Arguments

Applicants have reviewed the Office Action mailed December 22, 2008. To correct the typographical error in claim 6, applicants have amended that claim. Claims 1-9 remain pending in this application. Applicants request reconsideration of the rejections in view of the following remarks.

35 U.S.C. 102(b) Rejection of Claims 1 and 9

Claims 1 and 9 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,077,811 (*Onda*).

Claim 1 recites a method for detecting the orientation of a set of images, said set of images containing subset of images, each image in a subset of images representing at least one similar object. Applicants' method commences by choosing a reference image in each subset of image *from among the set of images*, and then detecting the orientation of the images of each subset as a function of the orientation of the said reference image.

For a claim to be anticipated under 35 U.S.C. §102(b), all elements of the claim must appear in a single prior art reference (see, e.g., Scripps Clinic & Research Found. V. Genentech Inc., 927 F. 2d 1565. 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed Cir. 1991)). The identical invention must be shown in as complete detail is in contained in the claim (See MPEP 2131). The single prior art reference must disclose all of the elements of the claimed invention functioning in essentially the same manner (see, e.g., Chancing Corp. v. Springfield Photo Mount Corp., 521 F.2d 609 (1st Cir. 1975). As discussed hereinafter, the *Onda* patent fails to meet these requirements under 102(b), and therefore cannot anticipate applicant's claimed invention.

In rejecting claim 1, the Examiner cites Col 3, 1ines 1-3 of *Onda* to allegedly show applicant's claimed step of "choosing a reference image in each subset of

images from among the set of images." As stated by the Examiner, *Onda* recites "A second predetermined number of reference characters are provided for comparison with the character images." Applicant respectfully points out that *Onda* does not disclose or suggest that the "reference characters" come from a "subset of images from <u>among</u> the set of images." The *Onda* patent provides characters for comparison, and as such, one of ordinary skill in the art cannot infer that such reference characters are selected from the first predetermined number of character images. Since the *Onda* patent specifically teaches the use of selected images with characters in their orientation detection scheme, and the use of separately provided reference images for use in comparing to those images with characters, the examiner's characterization of Onda constitutes impermissible hindsight reconstruction.

Furthermore, since *Onda* only operates with images having characters, such a system cannot work at all in an environment where the images do not contain characters. The present invention can work with or without characters in the selected image set.

As mentioned above, *Onda* does not disclose or suggest that a choice exists for a reference image from a sub-set of images which all comprise at least one similar object. *Onda* clearly discloses a set of characters that serve as reference characters and in that this reference character set serves as basis for comparison to characters extracted from detected images. As stated above, the reference characters in *Onda* are not chosen or selected *from among the images* whose orientation undergoes detection, as occurs with applicants' claimed invention.

Applicant's invention possess the distinct advantage that images which undergo orientation detection belong to a set of similar images and the *reference image* undergoes selection in this set of images. Thus finding the orientation of the other images becomes easy because they appear very similar to the reference image. Moreover, no need exists to pre-record or provide reference characters, as required by *Onda*. Also, the Applicant's invention enables the

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orientation detection of any kind of images, without the need for images to have characters, which is very advantageous in the frame of digital still cameras, where the pictures usually do not contain characters.

With applicant's claimed invention, no need exists for separate reference images stores or memories for storing the reference images. Only one set of scanned images become necessary and from this set of images, one image can be selected as a reference image in order to detect image orientation. Indeed, applicants' invention takes advantage of the fact that the user often takes several pictures of the same object, some in landscape, and some in portrait mode. Thus, assuming the ability to detect the orientation of one of these images representing the same object, using known techniques; applicants' invention affords the ability to detect the orientation of the other similar images. Thus, the claimed invention does not need to store in memory a set of reference characters or images, whereas *Onda* requires a set of reference characters stored in a memory for detecting image orientation.

Furthermore, *Onda* discloses a character and picture image data processing system. As mentioned above, *Onda* detects image orientation for characters, and cannot work for images having no characters. Claim 1 recites, *inter alia*, "detecting the orientation of the images of each subset as a function of the orientation of the reference image. Since the source of the reference image in the present invention constitutes the original subset of images, *Onda* also fails to disclose or suggest this feature of applicants' claim 1.

Claim 9, as originally presented, includes the same features as claim 1, and likewise patentably distinguishes over *Onda*, taken singly or in any combination with the cited art.

35 U.S.C. 103(a) Rejection of Claims 2-8

Claims 2 through 8 stand rejected under 35.U.S.C. §103(a) as being unpatentable over *Onda* in view of *Chiba et al* (U.S. Patent Number 6,744,537). Applicants respectfully traverse this rejection. .

As discussed above, Applicant respectfully submit that *Onda* absolutely fails to teach the Applicant's claim 1. The *Chiba et al.* patent fails to provide the missing teachings of *Onda et al.* so that the combination of these reference would not teach all of the features of claim 1, or claims 2-8 that depend therefrom.

Conclusion

In view of the foregoing, applicants solicit entry of this amendment and allowance of the claims. If the Examiner cannot take such action, the Examiner should contact the applicants' attorney at (609) 734-6820 to arrange a mutually convenient date and time for a telephonic interview.

No fees are believed due with regard to this Amendment. Please charge and fee or credit any overpayment to Deposit Account No. **07-0832.**

Respectfully submitted,

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